

**IN RE: APPEAL OF DAKSHESH PATEL : BEFORE THE ZONING HEARING
RELATIVE TO A PROPERTY LOCATED : BOARD OF THE CITY OF READING,
AT 1500 NORTH 13TH STREET, CITY OF : PENNSYLVANIA
READING, BERKS COUNTY, :
PENNSYLVANIA : APPEAL NO. 2021-30
:
: VARIANCE, INTERPRETATION
: AND/OR SPECIAL EXCEPTION**

**DECISION OF THE ZONING HEARING
BOARD OF THE CITY OF READING**

AND NOW, this 8th day of December, 2021, a hearing having been held on November 10, 2021, upon the application of Dakshesh Patel, notice of such hearing having been first sent and advertised in accordance with the provisions of the Pennsylvania Municipalities Planning Code and the City of Reading Zoning Ordinance, as amended, the Zoning Hearing Board of the City of Reading (hereinafter referred to as the “Zoning Board”) renders the following decision:

FINDINGS OF FACT

The Zoning Board finds the following facts:

1. Applicant is Dakshesh Patel, an adult individual, residing at 425 Merion Drive, City of Reading, Berks County, Pennsylvania 19608 (hereinafter referred to as the “Applicant”).
2. Applicant is the fee simple owner of the property located 1500 North 13th Street, City of Reading Berks County, Pennsylvania 19604 (hereinafter referred to as “Subject Property”).
3. The Subject Property located in the R-2 Zoning District and the Heights Conservation District as those terms and districts are defined by the Zoning Ordinance of the City of Reading, as amended (hereinafter referred to as the “Zoning Ordinance”).
4. Applicant was represented by George Lutz, Esquire, of Hartman, Valeriano, Magovern & Lutz, P.C.
5. Applicant appeals the denial of two zoning permit applications seeking to convert vacant commercial space on the first floor into a convenience store and to establish two residential apartments on the second and third floors of the existing three-story building located at the Subject Property.

6. Applicant seeks a variance with respect to the residential uses and a special exception with respect to changing the nonconforming commercial uses. Sections 600-803.B., 600-607.D.(6) and 600-1202.A.

7. The Subject Property is located on a parcel of land containing 6,100 +/- square feet and contains an existing three-story building that was previously utilized for commercial use on the first floor with residential use on the second and third floors.

8. The existing commercial space on the first floor of the Subject Property is currently vacant and the second and third floors are currently occupied with residential uses.

9. Zoning relief was granted in March of 2017 to a prior applicant to operate a restaurant on the first floor of the Subject Property; however, the restaurant never opened. At that time, the remainder of the building was the residence for the then owner of the property.

10. A zoning permit on file for the Subject Property (ZP 1961-1592) indicates one dwelling unit in addition to the commercial use is allowed at the Subject Property.

11. In or about May 2020, the Zoning Office ascertained there were two dwelling units at the Subject Property in addition to the vacant commercial space and a warning notice was issued to the property owner on May 29, 2020.

12. Applicant stated he purchased the Subject Property in February of 2021.

13. Applicant subsequently submitted two zoning permit applications seeking (1) to establish a convenience store on the first floor and (2) to establish two dwelling units on the second and third floors of the building located on the Subject Property.

14. The zoning permits were denied (1) because the proposed use is not a permitted use in the R-2 Zoning District and would represent an increase in intensity from the prior nonconforming use; and (2) because the proposed multi-family use is not allowed in the R-2 Zoning District and there is no documented history in the Zoning Office of multiple dwelling units at the Subject Property.

15. Applicant's application to the Board states that Applicant believes both uses sought are permitted as prior nonconforming uses; and therefore, no variance and/or special exception is needed.

16. Applicant proposes to operate a small convenience store selling items like coffee, soda, lottery and cigarettes.

17. The Subject Property is located near Albright College and its dormitories.

18. Applicant stated the convenience store hours would be from 6:00 a.m. to 8:00 p.m.

19. Applicant testified he would have one or two employees.

20. The Zoning Board find the proposed convenience store is more intense than prior commercial uses at the Subject Property.

21. The Zoning Board finds the proposed conversion of one residential use to two residential uses is not in keeping with the Zoning District.

22. The Zoning Board finds that the proposed hours of operation are too intense for the Zoning District.

23. The Zoning Board finds there is insufficient parking to accommodate the proposed uses.

24. The Zoning Board finds the Subject Property can be used under the existing zoning requirements.

25. Several neighbors opposed the proposed use of the Subject Property.

26. The Zoning Board finds the requested relief will be a detriment to the health, safety and welfare of the neighborhood.

DISCUSSION

Applicant is appealing the denial of two zoning permit applications seeking to convert vacant commercial space on the first floor into a small convenience store and to establish two residential apartments on the second and third floors of an existing three-story building located at the Subject Property. The proposed use will be a detriment to the health, safety and welfare of the neighborhood and is not in keeping with the spirit and intent of the Ordinance.

CONCLUSIONS OF LAW

1. Applicant is Dakshesh Patel.

2. The Subject Property is located at 1500 North 13th Street, Reading, Berks County,

Pennsylvania.

3. The Subject Property is located in the R-2 Zoning District and the Heights Conservation District.

4. The specific sections of the Zoning Ordinance appealed are Sections 600-803.B., 600-607.D.(6) and 600-1202.A.

5. The Zoning Board is permitted to provide interpretation and grant applications for variances, special exceptions and adaptive reuse as set forth in the relevant sections of the Zoning Ordinance.

6. In order to grant the requested relief, Applicant must show he has satisfied the relevant sections of the Zoning Ordinance.

7. After reviewing the Applicant's request in detail, the Zoning Hearing Board enters the following Decision:

a. Applicant is denied the requested relief.

The decision of this Board is by a vote of 4 to 0 .

**ZONING HEARING BOARD OF THE CITY
OF READING**

/s/ Philip Rabena

PHILIP RABENA, CHAIRMAN

/s/ Thomas Fox

THOMAS FOX

/s/ Jeffrey Gattone

JEFFREY GATTONE

/s/ Jared Barcz

JARED BARCZ